

## REMARKS

### 35 U.S.C. 112

The examiner rejected Claims 1-21 under 35 U.S.C. 112, second paragraph, as being indefinite. The examiner stated:

**Independent claims 1, 12 and 17 recite the limitation "to determine the type of directed order that the quoting market participant accepts". It is not clear what the Applicants mean by the limitation "type of directed order". Does the "type" mean "buy or sell order". Or does it mean "market order or limit order". Or does it mean "liability or non-liability order". Or does the "type" refer to some other order type. In view of these ambiguities the scope of the claim is unclear. Dependent claims are rejected by way of dependency on a rejected claim.**

**Claim 1 also recites the limitation "non- liability order, for negotiation in accordance with how the determined quoting market participant chooses to receive directed orders based on the profile". It is not clear what the Applicants mean by this limitation. In this claim it is not clear if "the market participant" and the "the quoting market participant" are the same parties to the transaction.**

Applicant has made clarifying amendments to claims 1, 12 and 17. For example, claim 1 now recites "access a stored profile from the system for the determined, quoting market participant, determine a type of directed order that the quoting market participant accepts with the type of directed order being at least one of a liability order and non-liability order ... ."<sup>1</sup>

The claims have also been amended to clarify the feature of "send the order, as ... ."

### 35 U.S.C. 103

The examiner rejected Claims 1-21 under 35 U.S.C. 103(a) as being unpatentable over Ketchum et al. (US Patent 7,181,424 B1) in view of NASD Rulemaking Reference (Reference AV in IDS of October 19, 2007).

The examiner stated:

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<sup>1</sup> Support is found in the specification at least at page 16, lines 10-13.

**Claims 1, 12 and 17, discloses a method for trading of securities comprising a storage system storing profiles of quoting market participants (See the entire disclosure of Ketchum especially Figures 1-2B, Column 2 line 46 - Column 4 line 62, the order parameters are interpreted to include profiles of quoting market participants); and a server computer system coupled to a network and configured to receive a directed order from a computer system (See the entire disclosure of Ketchum especially Figures 1-2B, 4-item 66, Column 2 line 46 - Column 4 line 62; determine the market participant that the order is directed to (See the entire disclosure of Ketchum especially Figure 6, a directed order implies this feature); access a stored profile from the system for the determined, quoting market participant, to determine the type of directed order that the quoting market participant accepts, and send the order, as a liability, for execution against their quote or non- liability order, for negotiation in accordance with how the determined quoting market participant chooses to receive directed orders based on the profile (See the entire disclosure of Ketchum especially Column 7 lines 29-35, 56-62). A system for trading of securities with a computer system and a computer program product for trading of securities by performing the steps of the claimed method are implied by the disclosure of Ketchum. In the alternative the features of send the order, as a liability, for execution against their quote or non- liability order, for negotiation in accordance with how the determined quoting market participant chooses to receive directed orders is also taught by the AV reference (See Reference AV Pages 12-43). The motivation to combine the teachings of the AVE reference with the disclosure of Ketchum is that it will provide increased liquidity to the traded securities and better prices for the investors.**

Claim 1 includes the feature of “access a stored profile from the system for the determined, quoting market participant, determine a type of directed order that the quoting market participant accepts with the type of directed order being at least one of a liability order and non-liability order.” These features are neither described nor rendered obvious by Ketchum taken separately or in combination with NASD.

The examiner argues that: “system storing profiles of quoting market participants (See the entire disclosure of Ketchum especially Figures 1-2B, Column 2 line 46 - Column 4 line 62, the order parameters are interpreted to include profiles of quoting market participants.” Applicant is at a loss to understand how order parameters can reasonable be interpreted to include profiles of quoting market participants. Order parameters are related to the order whereas a profile of quoting market participants is related to market participants, not an order *per se*.

No reasonable interpretation of Ketchum and in particular the cited portions of Ketchum could be construed to suggest: “access a stored profile from the system for the determined,

quoting market participant, determine a type of directed order that the quoting market participant accepts with the type of directed order being at least one of a liability order and non-liability order.”

Ketchum does address Directed Orders. Ketchum for example describes:

**Directed Orders**

The current quote montage allows Quoting Market Participants to advertise their buying or selling interest. To access a specific quote in the current quote montage, a market participant will enter into the OCF 25 a "directed order" to begin the negotiation process with a particular Quoting Market Participant. A directed order is one that is routed by the market participant entering the order to a specific MMID. To limit the possibility for dual liability, a directed order must be designated as: 1) All-or-None ("AON") and at least 100 shares greater than the size of the displayed quote of the market participant to which the quote is directed; or 2) a Minimum Acceptable Quantity order ("MAQ") with an MAQ value of at least 100 shares greater than the displayed amount of the quote of the participant to which the order is directed. If a Quoting Market Participant is at the inside or displaying (attributable or non-attributable) interest in the montage and receives a directed, non-Liability Order that the participant wishes to fill, to avoid double liability the Quoting Market Participant may "request a cancel" of its displayed quote/order in System 20 before it fills the non-Liability Order. System 20 will not decrement a quote upon the delivery of a non-Liability Order.<sup>2</sup>

Thus, while claim 1 requires a server computer configured to receive a directed order and access a stored profile ... for the determined, quoting market participant determine a type of directed order that the quoting market participant accepts with the type of directed order being at least one of a liability order and non-liability order, and send the order, as a liability for execution against their quote or a non-liability order for negotiation in accordance with how the determined, quoting market participant chooses to receive directed orders based on the profile,” Ketchum treats directed orders differently.

In Ketchum, a current quote montage allows Quoting Market Participants to advertise their buying or selling interest. To access a specific quote a market participant enters a "directed order" to begin the negotiation process with a particular Quoting Market Participant. However,

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<sup>2</sup> Ketchum Col. 9, line 5.

in Ketchum, a directed order is one that is routed by the market participant entering the order to a specific MMID designated either as: 1) All-or-None ("AON") and at least 100 shares greater than the size of the displayed quote of the market participant to which the quote is directed; or 2) a Minimum Acceptable Quantity order ("MAQ") with an MAQ value of at least 100 shares greater than the displayed amount of the quote of the participant to which the order is directed.

Nothing in Ketchum suggests the features of: "access a stored profile from the system for the determined, quoting market participant, to determine a type of directed order that the quoting market participant accepts with the type of directed order being at least one of a liability order and non-liability order" and send the order, as a liability order for execution against their quote or a non-liability order for negotiation in accordance with how the determined, quoting market participant chooses to receive directed orders based on the profile.

Claims 12 and 17 include analogous limitations as in claim 1.

Claims 2-5-11, 13-16, and 18-21 are dependent on respective ones of claims 1, 12 and 17 and are allowable over Ketchum taken separately or in combination with NASD (Reference AV) at least because of their dependency and for reasons of record.

#### Comments on the examiner's Response to Arguments

The examiner stated: "6. Applicant's arguments with respect to pending claims have been considered but are moot in view of the new ground(s) of rejection."

Applicant notes that previously AV was cited alone in the examiner's obviousness rejection.

In view of the examiner reliance on Ketchum, the examiner should state for the record that AV alone neither describes nor renders obvious the features of these claims. Moreover, for the reasons discussed above these claims are also allowable over Ketchum taken with AV because as with AV, Ketchum does not suggest much less describe the features that distinguished the claims from AV. Thus, Ketchum is duplicative of AV.

Applicant : Dean Furbush et al.  
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The Petition for Extension of Time fee of **\$130** is being paid concurrently on the electronic filing system by way of deposit account authorization. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

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